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Letter dated 15 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 4 October 2002 (S/2002/1164).

The Counter-Terrorism Committee has received the attached supplementary report from the Republic of Zimbabwe, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note Verbale dated 31 March 2003 from the Permanent Mission of Zimbabwe to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Zimbabwe to the United Nations presents its compliments to the Chairman of the Security Council Counter-Terrorism Committee (CTC) and has the honour to submit Zimbabwe's second report in response to issues raised by the latter.

Zimbabwe is in the process of compiling a list of requirements that will enable us to patrol our borders more effectively as well as addressing other issues raised in the last part of the CTC questionnaire.

Enclosure

Zimbabwe's report to the Security Council Counter-Terrorism Committee

Para 1

Zimbabwe is not yet a state party to the International Convention for the Suppression of the Financing of Terrorism. We are currently in the process of taking the necessary measures so as to become a state party as well as being party to The International Convention for the Suppression of Terrorist Bombing, and the OAU Convention on the Prevention and Combating of Terrorism. Regarding the latter two, ratification instruments are being prepared while the former is still to go before parliament for approval. Owing to the fact that we are not yet a party to the instruments, we do not have specific legislation in place dealing with the combating, prevention or suppression of financing of terrorism. This does not mean that as a country we condone terrorism. In fact even though we have repealed the colonial Law and Order Maintenance Act, we have the same anti terrorism legislation incarnated in the Public Order and Security Act. Some of our domestic legislation however complies substantially with the provisions of both the resolution 1373 of 2001 as well as the Convention on the Suppression of Financing of Terrorism, though not at international level. Our Law and Order Maintenance Acts deals with aspects of terrorism, while our Serious Offenses (Confiscation of Profits) Act, although not making specific reference to terrorism, provides for the manner of dealing with, and the forfeiture of the proceeds of crime. A copy of the relevant Act, is attached for ease of reference. Once we have become a party to the Convention, we will domesticate the same through the enactment of compliance legislation as well as putting in place measures to implement and monitor the same.

We have no legal requirement for religious or cultural organizations to register, hence save where they opt to be registered welfare organizations, it is not possible to monitor their activities, as well as keep track of the use of their finances. We are however in the process of reviewing the registration and monitoring requirements for all private voluntary and welfare organizations are currently subject to the monitoring of the registering authority, but practically these have not been systematically monitored in the past.

So far, the above offences can be dealt with using the following legislation

- Serious Offences (Confiscation of Profits) Act (Chapter 9:17 – Parts II;III and V
  Criminal Matters (Mutual Assistance) Act (Chapter 9:06) – Parts III; and V
- Common Law Offence of Defeating or Obstructing the Course of Justice.

Ad para 2(a)

In Zimbabwe, the acquisition and possession of firearms is governed by the Fire Arms Act, [Chapter 10.09] and the Public Order and Security Act [Chapter 10.09]. It is an offence to own or possess a firearm or dangerous weapons or explosives without lawful authority. The transportation of firearms or artillery of any kind by air is an offence in terms of the Aircraft Offences Act while our Road Traffic Act [Chapter 13.11] and Road Motor Transport Act (Chapter 10:09) prohibit transportation by road. However, in order to counter the transportation by road of goods connected with terrorism, there is need to amend both legislation to allow the police who conduct roadblocks to inspect the goods on board a vehicle. As a SADC state, we are also a state party to the Protocol on Firearms. The country is set to become the Headquarters of the Regional Training Institute for the Training and Monitoring of Terrorist Activities.

Relevant legislation in this regard includes:

- Public Order and Security Act (Chapter 111:17) - Part II
- Firearms Act (Chapter 10:09)
- Explosive Act (Chapter 10:08)

b) There is a mutual state cooperation between Zimbabwe other SADC states, hence through our position of SARPCCO as well as being a member state of Interpol, there will be exchange of information on terrorist activities. The SADC Protocol on Defence and Security which we are a party to, gives room for the communication between states in the event of there being any threat of terrorist activities. Currently it is difficult for Zimbabwe to effectively detect acts of terrorism and there is need to come up with comprehensive and appropriate legislation, as well as strengthening the administrative machinery in dealing with, and communication with other states, cases of terrorism.

c) Zimbabwe is a state party to the 1951 Geneva Convention Relating to the Status of Refugees, the 1967 Protocol to the Status of Refugees as well as the 1969 African Convention Governing the Specific Aspects of Refugee Problems in Africa. The granting of refugee status is done by the Commissioner of Refugees after making through investigations and inquiries into the status of the applicant. Such investigations include immigration and Interpol search and any person who has committed a crime against peace, or a war crime, or a crime against humanity as defined in any instrument to which Zimbabwe is a party, or has violated any of the principles of the United Nations, among other things will not be granted refugee status. Thus persons who are perpetrators, accomplices or accessories to the crime of terrorism are not granted refugee status in Zimbabwe.

d) There are no specific legislative measures in place in this regard as we are not yet a state party to the convention. The same applies to the use of Zimbabwe's territory for the purposes of terrorist activities outside Zimbabwe. However as previously stated above, we are in the process of having the Convention ratified by our Parliament, as it is only after such adoption that we can effect its provisions and fully harness the problem of terrorism.

e) While we have admitted that we have not yet become a state party to the Convention on the Suppression of Financing of Terrorism, we have analyzed our legislation to ascertain the extent to which it complies with the Convention, and state that we have provisions in place necessary to implement certain provisions of the Convention and also ensure that the jurisdiction of our courts and the administration of justice is enabled to bring to trial perpetrators of terrorist acts and cooperate with and provide support to other state parties and relevant international and regional organizations more particularly with subparagraph2(e) of the resolution. Once we have become a state party to the instrument there will be need for us to either amend our existing Serious Offences (Confiscation of Profits) Act (Chapter 9:17) so that it covers the specific aspect of funding of terrorism under both serous offences or specified offences. In the same vein, sections of the Public Order and Security Act (Chapter 11.17), which cover various aspects of insurgency, banditry, sabotage and terrorism at domestic level, would have to be strengthened by incorporating the financing of terrorism and thus widen the jurisdiction of the Act. Another alternative would be to enact legislation specifically incorporating provisions of the Conventions, which however is more time consuming compared to amending the existing legislation.

Regarding the competence of Zimbabwe's courts over:

i) Acts committed outside Zimbabwe by a Zimbabwean national or resident, if such person is within Zimbabwe, he is dealt with in terms of the Extradition Act (Chapter 9:08), the Criminal Matters Mutual Assistance Act (Chapter 9:06), the Prevention of Corruption Act (Chapter 9:16) or the Serous Offences (Confiscation of Profits) Act. We have jurisdiction over a foreign national who commits an offence outside Zimbabwe and then comes to Zimbabwe but on request by the offended country, in accordance with the Extradition Act, or the Criminal Matters Mutual Assistance Act (Chapter 9:06) the person is repatriated to the country where he is required to stand trial. Further, Zimbabwe may assist another country in the gathering of evidence from within Zimbabwe.

f) Zimbabwe is a state party to the SADC Mutual Legal Assistance Protocol, the Criminal Matters Mutual Assistance as well as the Commonwealth Harare based scheme on mutual assistance.

g) The following agencies work hand-in-hand;
Zimbabwe Republic Police, Defence Forces, Immigration, National Parks, etc. There is training of personnel in both the public and private sectors, in particular members of the Police Force, the Banking sector and other stakeholders such as Immigration. Besides combined patrols manned by members of the ZRP and Defence Forces there are established and fully equipped and professionally manned border posts.

3(a), (b) and (c)

The SARPCCO and the Interpol are the current institutions through which there is exchange of information on crime in general and the same structures can be used for exchange of information on terrorism.

c) Extradition is in terms of Extradition Act (Chapter 9:08). The Act provides for the procedure of extradition of persons between Zimbabwe and other countries with which we have extradition agreements, or which have been designated for extradition purposes. Zimbabwe extradites a wanted person on the request made to the Minister for Home Affairs by the designated or reciprocating country against which the offence was committed. In the case of the wanted person being a national of Zimbabwe, the request for his surrender has to establish a prima facie case according to the law of Zimbabwe committed by him or for which he has been convicted by the requesting country. The government, on such country's reques: and on good cause shown can cause the provisional arrest of the person to be brought before the Magistrates court for a determination of whether to confirm the order or not. The offence for which the person is being sought for extradition has to fall within the agreement between Zimbabwe and the reciprocating country, or has to alternatively fall within the provisions of the Act, where the request has emanated from a designated country. The extradition has to be confirmed first by a court of law before the person can be handed over either for trial or for sentence. On handover of the person, any property on his person, which constitutes the offence, is also handed over to the foreign power. Further, the determination can be appealed against at the Supreme Court of Zimbabwe.

Zimbabwe has an extradition agreement with Mozambique and in terms of our Extradition Act, the following are designated as reciprocating countries for extradition purposes:

Antigua Barbuda
The Bahamas
Barbados
Bermuda
British Virgin Islands
Canada

Australia
Bangladesh
Belize
Botswana
Brunei Darussalam
Cayman Islands

Cook Islands
Dominica
Falkland Islands
Ghana
Grenada
Hong Kong
Isle of Man
Jersey
Kiribati
Malawi
The Maldives
Mauritius
Nauru
Nigeria
Niue
Papua New Guinea
St. Lucia
Seychelles
Singapore
South Africa
Tonga
Turks and Caicos
Uganda
Western Samoa
United Kingdom

Cyprus
Fiji
The Gambia
Gibraltar
Guyana
India
Jamaica
Kenya
Lesotho
Malaysia
Malta
Monserrat
New Zealand
Namibia
Pakistan
St. Helena
St.Vincent and the Grenadines
Sierra Leone
Solomon Islands
Swaziland
Trinidad and Tobago
Tuvalu
Vanuatu
Zambia

3(e) Since we are not yet a state party to the conventions under consideration, none of the offences are extraditable offences yet. However, it is still possible to extradite for the same under the provisions of the Extradition Act.

5(f) The Refugees Act. In Zimbabwe, all asylum seekers are vetted by the Refugees Committee before they are granted refugee status. The task of this Committee is to ensure that asylum seekers do not breach any International Conventions or Agreements. People on the International Court of Justice or any such body's wanted list are not granted refugee status. With the help of the UNHCR, checks of asylum seekers' background are done.

3(g) The issue of extradition for terrorism presents a problem because most transnational acts of terror are politically motivated.

Section 15 of our Extradition Act provides that: *'No extradition to a designated country shall take place in terms of this part: Provided that notwithstanding that an offence is of a political character extradition may be granted in respect thereof if it –*

i) is directed against the life or person of the head of state or government of any designated country; or

ii) involves hi-jacking of a vehicle, vessel or aircraft

iii) is an offence in terms of the Genocide Act (Chapter 9:20) or an attempt, conspiracy or incitement to commit such an offence'

It is therefore possible for extradition to be refused on political grounds in certain instances though it is our position that extradition should not be refused for international criminals.

Ad Para 4

- The Zimbabwe Republic Police is a member of INTERPOL and one of the reasons for joining INTERPOL is to share information with member states in terrorism, illicit drug syndicates, money laundering and arms trafficking.
- At Regional Level, Zimbabwe Republic Police is a member of SARPCCO.
- One of the main thrusts of SARPCCO is for each member state to share information with other member states.
- Zimbabwe is going to ratify the United Nations Convention against transnational organized crime and its protocol.
- At a recent Regional Ministerial Conference held in Algiers from the 29 – 30th of October 2002, Zimbabwe was fully represented by the Minister of Home Affairs.
- The Conference noted that there is a link between transnational organized crime, drug trafficking, money laundering and terrorism.